IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3788 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

AITABHAI SHAKRABHAI CHAUHAN

Versus

CHAIRMAN

Appearance:

MR GIRISH M DAS for Petitioner

NOTICE SERVED BY DS for Respondent No. 1

MR ANANT S DAVE for Respondent No. 2

MR RV DESAI, AGP for Respondent No. 4

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 20/04/2001

ORAL JUDGEMENT

#. Shri Girish M.Das, learned counsel for the petitioner requests for permission to delete relief, para-13B in the petition. Request is granted. Relief, para-13B be deleted and necessary corrections be made in the writ

petition.

#. This petition is listed for hearing on admission. Respondent nos.1 and 3 are served. Shri GM Das for the petitioner and Shri RV Desai, learned AGP for the respondent no.4 have been heard on admission of this petition and counter affidavit of respondent no.3 has also been considered. After deletion of relief, para-13B, it is proposed to dispose of this petition finally at the admission stage.

#. Relief-A is a formal relief for which no order is required to be passed because the petition is proposed to be disposed of at the admission stage. For relief-D, Shri RV Desai informs that necessary steps are being taken for initiating criminal proceedings against the respondent no.1 for breach of the award declared by the Labour Court. In view of this statement of Shri Desai, this relief also requires no consideration, nor it can be granted. Shri Desai further informs that criminal complaint has already been filed. As such, criminal complaint will be considered by the court concerned accordingly in accordance with law.

#. So far as relief-C is concerned, the prayer is that the respondent nos.2 and 3 be directed to take action on top priority on the recovery certificate issued by the Labour Court for recovering Rs.50,000=00 with 12% interest.

#. The grievance of the petitioner is that, inspite order dated 12-3-1999 of the Labour Court, Nadiad and further issuance of the recovery certificate, no serious steps have been taken for execution of the recovery certificate. As against this, counter affidavit has been filed by the Taluka Development Officer, respondent no.3 wherein, it is stated that suitable steps were taken for execution of recovery certificate, and ultimately, notices under secs.148 and 152 of the Land Revenue Code were also served on 1-6-2000 on the respondent no.1. It is further deposed in this counter affidavit that, subsequently also, letter was issued by the respondent no.3 to the Talati-cum-Mantri on 2-6-2000, and that on 22-12-2000 the respondent no.1 had issued a letter, which speaks about the latest financial position of the respondent no.1. Copy of the said letter is annexed as Annexure-3. Learned counsel for the petitioner, however, informs that this information is incorrect because, only letter of the respondent no.1 has been annexed as Annexure-3 to the counter affidavit, but balance-sheet has not been annexed. Today, balance-sheet is filed by

the petitioner, and considering the balance-sheet, it can not be said that the financial condition of the respondent no.1 is such that the recovery certificate can not be issued. As such, relief-C can be granted.

#. In view of the above discussions, the petition is partly allowed. The respondent nos.2 and 3 are directed to execute the recovery certificate issued by the Labour Court, Nadiad within a period of two months from today. No order as to cost.

April 20, 2001. [D.C. Srivastava, J.]

/sakkaf